

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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MELINDA ABBT 4:19-CV-1353

VS. HOUSTON, TEXAS

CITY OF HOUSTON, ET AL OCTOBER 21, 2019

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TRANSCRIPT OF PRETRIAL CONFERENCE PROCEEDINGS  
HEARD BEFORE THE HONORABLE LYNN N. HUGHES  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

FOR THE PLAINTIFF: MR. NASIM AHMAD  
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FOR THE DEFENDANT MS. DEIDRA NORRIS SULLIVAN  
CITY OF HOUSTON: MR. DONALD FLEMING  
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Proceedings recorded by mechanical stenography,  
transcript produced via computer.

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2 JOHN CHRIS BARRIENTES:

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United States District Court  
Southern District of Texas  
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Room 8004  
Houston, Texas 77002

**P R O C E E D I N G S**

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THE COURT: Do you anticipate any new parties?

3

MS. SULLIVAN: No.

4

THE COURT: Do you?

10:10AM

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MR. SOLIZ: Not parties.

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THE COURT: Okay. Because that's number one on the schedule. I don't see any reason. We've covered lots of folks.

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9

10:10AM

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MS. SULLIVAN: I think it was more the amendments to our pleadings because at our last conference or in your order -- let's see when it came down.

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12

The management order for August 14th, you indicated that Melinda Abbt may amend her complaint. So I guess I'm assuming that's what that date is related to.

14

10:10AM

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THE COURT: She hasn't done it?

16

MS. SULLIVAN: No.

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THE COURT: So she doesn't need to do it. How long has that been? Three months, four months?

19

MS. SULLIVAN: Yes.

10:10AM

20

THE COURT: Experts? Do y'all think you need an expert about something?

21

22

MR. SOLIZ: Maybe a medical expert.

23

THE COURT: Speak up.

24

10:11AM

25

MR. SOLIZ: Maybe medical experts. I mean, they provided some medical information.

1 THE COURT: That's the only one I can think of.

2 MR. SOLIZ: Attorneys' fees perhaps.

3 THE COURT: No. We don't want an expert on that. I  
4 have a calculator. I can work out a \$1.98 an hour.

10:11AM 5 MS. SULLIVAN: Mine are the same. They do not change.

6 THE COURT: I don't see any reason for experts except  
7 medical. And that means, of course, you need her medical  
8 history going back -- she's been with the City for 20 years,  
9 hasn't she? 15?

10:12AM 10 MS. SULLIVAN: No. Because she has -- I don't think  
11 she's vested; so less than 20.

12 THE COURT: And so theoretically she's been getting  
13 treatment. So let's go back -- do they give them psychological  
14 tests when they join the fire department?

10:12AM 15 MS. SULLIVAN: No.

16 THE COURT: You're going to get one of those guys, I  
17 don't know what city -- they had a firemen who really liked  
18 putting out fires so he went around setting them because there  
19 wasn't enough legitimate business. So maybe at least that  
10:12AM 20 ought to be checked.

21 Well, from four years before she joined the fire  
22 department on, first she needs to tell you all -- every doctor  
23 she's seen for what; when; a name of the doctor; and the place,  
24 the city.

10:13AM 25 You-all look at that. If there are any for whom

1 you want the records, then you can either get them or she'll  
2 have to get them.

3 All right. Can you think of any discovery you  
4 have besides the potential medical?

10:14AM

5 MR. SOLIZ: Well, there's some parties that have  
6 information about the computer that she had. I think their  
7 testimony is going to conflict with what the plaintiff has  
8 testified.

9 THE COURT: Okay. Who's that?

10:14AM

10 MR. SOLIZ: We had submitted to them an initial  
11 disclosure and we identified some people that have discoverable  
12 information that might support our defenses -- that we believe  
13 would support our defenses.

14 THE COURT: So just tell me. Do you want to subpoena  
15 them, subpoena their records, depose them? What do you want to  
16 do?

10:14AM

17 MR. SOLIZ: Depose them.

18 THE COURT: Okay. How many are there?

19 MR. SOLIZ: One, two, three. Three.

10:15AM

20 MS. SULLIVAN: Is this in addition to the ones that  
21 were taken for 202 because they deposed Sciortino already?

22 MR. SOLIZ: That was before.

23 MS. SULLIVAN: That was before you were in. Okay.

24 MR. SOLIZ: If I can get a copy of it, I don't need  
25 that; but the other David Elliot who was a former district

10:15AM

1 chief.

2 THE COURT: So I put down three people about the PC.

3 MR. SOLIZ: No more. It may be two if I can get a copy  
4 of his deposition.

10:15AM 5 THE COURT: Okay.

6 MR. SOLIZ: But no more than that.

7 THE COURT: Nothing about anybody else?

8 MS. SULLIVAN: Her husband.

9 THE COURT: Mr. Fleming?

10:16AM 10 MR. FLEMING: Nobody on our side.

11 MS. SULLIVAN: Her husband.

12 MR. FLEMING: The husband, we need to take him?

13 MS. SULLIVAN: Yes. Maybe.

14 MR. FLEMING: Her husband.

10:16AM 15 THE COURT: Pardon?

16 MR. FLEMING: Her husband.

17 THE COURT: So how long is it going to take y'all  
18 roughly to get that done?

19 MR. FLEMING: He showed up. That's the plaintiff's  
10:16AM 20 lawyer.

21 MS. GRANT: Nasim Ahmad, sir.

22 THE COURT: Come in.

23 MR. AHMAD: Hello. Good morning, Judge.

24 THE COURT: Another five minutes, and you would have  
10:17AM 25 missed it all.

1 MR. AHMAD: I apologize, Judge.

2 THE COURT: Apparently one of your voice mail boxes is  
3 full.

4 MR. AHMAD: Oh, okay.

10:17AM 5 THE COURT: It's hard to leave you a message. We tried  
6 to get you.

7 MR. AHMAD: Yeah, I called the case manager and talked  
8 to her also and let her know that I was going to be about  
9 15 minutes late.

10:17AM 10 THE COURT: When did you do that?

11 MR. AHMAD: It was right around 9:30, I think; and she  
12 said she would let chambers know. I talked to Glenda. So I  
13 apologize.

14 THE COURT: I assume there might be, after you find out  
10:17AM 15 all this stuff, some motions, some narrow motions, some broad  
16 motions.

17 And so this proposes February 28th. Can you get  
18 all that other stuff done?

19 MS. SULLIVAN: We may -- depending on how quickly she  
10:18AM 20 can get her medical information to us, we may want to depose  
21 one of the doctors.

22 So we're in October. February 28th still should  
23 be okay.

24 THE COURT: All right. Let's leave it, knowing that if  
10:18AM 25 one of these things turns into a gold mine or not a gold mine

1 or whatever -- a swamp instead of a gold mine, you may need to  
2 do something.

3 I want to back up for this once. Are you  
4 anticipating an expert?

10:18AM 5 MR. AHMAD: I'm not anticipating an expert.

6 THE COURT: Are you anticipating calling her doctor?

7 MR. AHMAD: Yes.

8 THE COURT: Okay. They have none except they'll want  
9 somebody to correct her. They want to depose two or three  
10:19AM 10 people -- I didn't quite follow it -- who have some knowledge  
11 about the computers involved, and they want to depose the  
12 husband.

13 On the joint pretrial order, except on saying you  
14 have no objections to his exhibits and vice versa or something  
10:20AM 15 like that, I'm not sure they need to be joint, but I need a  
16 list of the witnesses, their name, where they work, something  
17 about them.

18 And if there get to be very many, we'll have a  
19 neutral list of both parties' witnesses so we can give it to  
10:20AM 20 the jury. It's hard for them to keep track of people. You  
21 can't put down your client, "world's greatest firefighter."

22 It has to just say, "fireman for Houston" or just  
23 some indication of how they fit into the picture.

24 Is there anybody who is now outside of Houston?

10:21AM 25 MS. SULLIVAN: David Elliot is a former district chief



1 with the Houston Fire Department. I do not know where he  
2 lives, but I can get his last-known address, because they  
3 sometimes live in Louisiana and other places.

4 THE COURT: I understand when you retire, you might not  
10:21AM 5 want to just get up every morning and drive on the Katy Freeway  
6 at two miles an hour.

7 MS. SULLIVAN: No. They live there now and work for  
8 us.

9 MR. FLEMING: Yes. We have firefighters who are not  
10:21AM 10 city residents.

11 THE COURT: Every once in a while to keep my wife from  
12 complaining about my work still, I say, "I think we'll just  
13 retire and go live on the farm."

14 And she immediately thinks it's a good thing that  
10:22AM 15 working still would be healthy.

16 And you need to know ours is not a Houston farm.  
17 It's a real farm. The only housing on it is for the cattle.  
18 If I go up there and work, I stay in a motel, because the last  
19 thing I want to do is mess with sheets and figure out why the  
10:22AM 20 air conditioner doesn't work. I go up there to mess with the  
21 work.

22 Best of all, I can't even listen to the radio  
23 because the machinery makes so much noise. If you're ever  
24 riding around on some farm equipment, it makes a lot of noise.  
10:23AM 25 Every once in a while, like ten minutes, stop, look 360 degrees

1 at the sky, because you make a really nifty lightning rod out  
2 there and the weather can change like that.

3 So I will have to talk to Glenda about April, but  
4 at this point it should not be full. But my deal with her is I  
10:23AM 5 don't set dates without checking with her, and she doesn't kill  
6 me.

7 MR. FLEMING: Okay.

8 THE COURT: So where are you now professionally?

9 MR. AHMAD: The Woodlands.

10:24AM 10 THE COURT: At Ahmad & Capodice.

11 MR. AHMAD: Capodice actually. Yes. But we actually  
12 just dissolved the firm, so I'm now out on my own.

13 THE COURT: On your own at the same address or at the  
14 bus station in Conroe?

10:24AM 15 MR. AHMAD: Different address. I will be moving, I  
16 think, later this week actually.

17 THE COURT: Would you please update me and them?

18 MR. AHMAD: I shall.

19 THE COURT: And your draft board.

10:24AM 20 All right. Anything else?

21 MR. FLEMING: I don't think so.

22 MS. SULLIVAN: No.

23 MR. AHMAD: Thank you, Judge.

24 THE COURT: Thank you.

10:25AM 25 And if y'all manage to work something out, it

1 wouldn't hurt my feelings.

2 (The proceedings were adjourned.)

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REPORTER'S CERTIFICATE

I, Lanie M. Smith, CSR, RMR, CRR, Official Court Reporter, United States District Court, Southern District of Texas, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.

/s/ Lanie M. Smith  
Official Court Reporter